THE HONOURABLE SRI JUSTICE GODA RAGHURAM

Writ Petition Nos.8423 and 8595 of 1998

Dated: 28-03-2007

W.P.No.8423 of 1998

Between:

T.Srinivasulu Reddy.
…..PETITIONER

AND

Chairman cum Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Ananthapur and another.
...RESPONDENTS

W.P.No.8595 of 1998

Between:

K.Gopal.
…..PETITIONER

AND

Chairman cum Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Ananthapur and another.
...RESPONDENTS

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

Writ Petition Nos.8423 and 8595 of 1998

COMMON ORDER:

The two petitioners in the writ petitions were employees of M/s.Nutrine Confectionary Company Private Limited, Chittoor. On 6-6-1982 the petitioners though had to report to duty abstained without just cause. Petitioners were also members of the union and had positions of influence in the union affairs. They were suspended by an order of the management dated 9-6-1982 on which date a common charge-memo was issued to the petitioners and some others making several allegations including of incitement to unlawful abstention from work and unruly and abusive behaviour. As against the petitioner in W.P.No.8595 of 1997, a charge of indulging in extremely vulgar, abusive and obscene language, was levelled. The petitioners were dismissed from service by the order of the management dated 8-11-1982. The petitioners sought reference of this dispute under Section 10 of the Industrial Disputes Act, 1947. The State Government by an order dated 27-1-1984 declined to make the reference. The other employees (excluding the petitioners) filed W.P.No.16290 of 1986 challenging the refusal by the State Government to make a reference

under Section 10 of the I.D. Act. Initially, despite noticing the enormous delay by those writ petitioners an interim order appears to have been passed directing the State Government to make an order of reference. Against that order the management filed review petitions in the several writ petitions. The writ petitions were finally disposed of merely directing the State Government to reconsider the issue whether an order of reference should be made. The State government again by an order dated 19-6-1987 declined to refer the dispute regarding the dismissal of 10 workers (including the petitioners) to the Industrial Tribunal-Labour Court. Nearly a decade after even the second order of refusal by the State Government dated (19-6-1987), the petitioners herein filed claim petitions before the Industrial Tribunal-Labour Court, Anantapur.

A number of issues and defenses were presented to the Labour Court on behalf of the petitioners and the management. The labour Court held against the management and recorded that the claim petitions were maintainable. However, on merits the Labour Court found the conduct of the petitioners to be indefensible and inconsistent with the obligations of an employee. The Labour Court held that charges 1, 2 and 5 against the petitioners were proved. Coming to the relief, the labour Court held that even the High Court in 1986 had recorded the conclusion that the petitioners therein had approached the court with enormous delay and that the delay has become more acute in 1996 when the claim petitions were filed before it. On a consideration of all the relevant circumstances including the fact that the petitioners received all the terminal benefits and without protest, The Labour Court directed the management to pay compensation of Rs.50,000/- to each of the petitioners. The Labour Court clearly recorded that the petitioners were not entitled to reinstatement, as they are guilty in misconduct and in respect of serious charges lawfully

established.

This court discerns no infirmity in the analysis of the evidence, the conclusion arrived at or the limited benefit granted to the petitioners, by the Industrial Tribunal-Labour court. Apart from concurring with the conclusions of guilt recorded by the labour Court, this Court also places on record the fact that the petitioners had filed the claim petition 14 years after the respective dates of their dismissal. This is gross and wanton latches. No explanation is vouchsafed for such delay.

True it is that there is no period of limitation is prescribed for seeking relief before the labour court. That does not mean that a workman is entitled to approach the court for redress at an infinite point of time, of his choice. Every remedy must be pursued with diligence. A legal remedy is no exception as held by the Supreme Court in ***Rabindra Nath Bose and others v. Union of India and others*** [1]. Even fundamental rights cannot be asserted if the recourse to the remedy is barred by latches and delay. The claim of the petitioners as to their unlawful termination is no higher than a claim for fundamental right. Delay and latches is a powerful solvent that dissolves all remedies. For this additional reason this court is not inclined to grant any relief in this writ petition.

There are no merits in the writ petitions and the writ petitions are accordingly dismissed. No costs.

(GODA RAGHURAM,J)

Date:28-03-2007
grk

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

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Dated: 28-03-2007

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[1] AIR 1970 SC 470